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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,057	12/14/2001	Udo Schutz	PR-37	6216

7590
Friedrich Kueffner
Suite 910
317 Madison Avenue
New York, NY 10017

05/28/2003

EXAMINER

CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 05/28/2003

124

Please find below and/or attached an Office communication concerning this application or proceeding.

EC

Office Action Summary

Application No.

10/017,057

Applicant(s)

SCHUTZ, UDO

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 5-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ | 6) <input type="checkbox"/> Other: ____ |

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Claims 5-11 stand withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected specie, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 11.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Schutz ('777)(Schutz).

Schutz discloses a transport and storage container for liquids comprising an inner container, an outer mantle and a pallet-shaped underframe, as shown in Fig. 1, 6 and 21 the transition between the front wall and lower bottom of the inner container includes a relatively large radiused edge much like the transitions between the top wall and the front, back and side walls and the transitions between the lower bottom and the back and side walls, as well as, the transitions between adjacent front, back and side walls, this transition from the front wall and lower bottom includes two forward portions arranged on opposed sides of the bulge, the two forward portions ascend from the lower bottom toward the front wall and lower front corner areas adjoining the front wall, the two forward portions form drainage surfaces.

For claims 2 and 3, many different connecting edges can be delineated between the lower bottom and the drainage surfaces. One such connecting edge delineation would be a connecting edge which is generally perpendicular and at a 90 degree angle to an elongated center axis of the drainage channel and would extend transversely to the drainage channel, such a connecting edge

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would be slanted to the drainage channel as it would be slanted to the edge of the drainage channel closest to the connecting edge at an angle of slightly less than 90 degrees as the channel is wider near the front wall and narrower near the back wall. Another such connecting edge delineation would be a connecting edge which at an end closest to the drainage channel contacts the radius edge between the front wall and the lower bottom just as the lower bottom transitions from a flat surface to the radius edge, the connecting edge then proceeds at a 45 degree angle to the elongated center axis of the drainage channel. Note that nothing in the claims precludes the connecting edge from being the connection of a flat surface to another flat surface sharing the same plane and nothing precludes the forward bottom portions and the drainage surfaces of the forward bottom portions from being horizontal and planar.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schutz in view of Maurice.

Schutz discloses the invention except for the plastic support elements. It would have been obvious to modify the sheet metal floor pan to be plastic in order to lower the net weight of the pallet container as compared to a pallet container with a sheet metal floor pan. Maurice teaches two foam plastic support elements. It also would have been obvious to separate the floor pan into two different parts and provide two plastic support elements for each front corner to improve cushioning and protect the container from unnecessary shock.

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Applicant's arguments filed May 12, 2003 have been fully considered but they are not persuasive. Applicant submits that claims 5-11 should be treated since claim 1 is generic and allowable. Claim 1 hasn't yet been found allowable. If claim 1 should be found allowable and claim 1 is still generic, then claims 5-7 would presumably be allowed since they are dependent from claim 1. However, independent claim 8 and its dependents are directed to another specie and are not generic.

Applicant further submits that claim 1 is allowable because the two front bottom portions arranged on both sides of the dome-shaped bulge in the front wall of the inner container are not shown by Fig. 1, 6 and 21 of Schutz. The examiner doesn't agree. The two front bottom portions may be hidden from view in Fig. 1 behind the pallet 4. However, hidden lines reveal the existence of the at least one front bottom portion as shown by the hidden lines in Fig. 1 at the front and at a bottom region hidden from view by pallet 4 at the lower left of Fig. 1. The container is made of a inner container 2 and outer jacket of sheet metal 3 and a pallet 4, neither the outer jacket or the pallet seals openings in the inner container. The inner container fully encloses and seals the internal volume and has no openings. Figures 3, 8, 12 and 15 all show the valve and opening to be centrally located on the front wall between the left and right side walls, the bulge is also centrally located between the left and right side walls (although the depth of the bulge can't be appreciated from the front view of Fig. 3, 8, 12 and 15). The bulge depth is readily apparent from viewing Fig. 1, 5, 6, 9, 10, 13, 20, 22 and 23. The bulge in the inner container occurs on the inward curvature 19, the inwardly curved portion 24 or hood 25 is adapted to the inward curvature 19 of the inner container. One having ordinary skill in the art would assume that the two front bottom portions of the inner container on either side (to the left

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and right) of the inward curvature would be curved (outwardly) to correspond to the shape of the front wall 23 of the pallet and would extend in such manner as to seal the inner container.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 703-308-1035.

The examiner can normally be reached on M-Th 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee W. Young can be reached on 703-308-2572. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Stephen J. Castellano
Primary Examiner
Art Unit 3727

sjc
May 22, 2003